

REMARKS:

The claims have been amended to correct a spelling mistake in claim 3, and ensure that the invention is properly defined in a manner which patentably distinguishes the present invention from the prior art of record.

Concerning the rejection in paragraph (1) of the Official Action, claim 2 is now properly dependent on new claim 9.

As a preliminary, it is worth noting that applicant has invented a simple protector for use on the top of a sewer grate closing an opening into a sewer system which includes three elements, namely:

- (a) an annular, closed porous, tubular casing for placing on the grate over the opening;
- (b) a skirt connected to and extending radially outwardly from a bottom side edge of the casing for wrapping around side edges of the grate and for retaining the protector in position when the grate is placed over the opening to engage the skirt; and
- (c) a filler in the casing for maintaining the casing in an expanded condition so that the casing can act as a barrier.

New claim 9 and consequently each of the remaining claims in this application is believed to patentably distinguish the present invention from the references of record because new claim 9 contains elements (a), (b) and (c) listed above and this particular combination of elements is not taught by any of the references of record when considered alone or in combination.

Dealing with the Page reference first, Page relates to an insert for use in a sewer basin. In this connection, reference is made to column 1, line 18 and column

2, lines 33 to 38 and 67 of the Page reference. Element 6 of the Page insert which can be formed into an annulus as shown in Fig. 3, is in fact a support sleeve for receiving a metal support. The metal support is used to suspend the insert in a sewer basin. The support sleeve (whether annular or not) is not a closed, porous, tubular casing for placing on a grate over the opening of a sewer basin (underlining added for emphasis). Moreover, the ridge flap 2 of Page is not a skirt connected to and extending radially outwardly from a bottom side edge of an annular casing for wrapping around side edges of a grate, as claimed in new claim 9. The ridge flap 2 extends radially inwardly from the support sleeve 6 for channeling storm water into the center of the insert. Finally, Page does not disclose element (c) listed above, i.e. a filler in the annular casing for maintaining a top of the casing in an expanded condition. The support sleeve of Page must be hollow for receiving a support member 10. Column 4, lines 18 to 22 of the Page patent state that in the round inlet basin design shown in Fig. 3 the support member may comprise a single piece of metal (a bar) having a circular perimeter. The bar is disconnected at a separation 18 permitting insertion of the bar into the annular support sleeve. Reference is also made to column 5, lines 27 to 31 which describe how the flat circular rod is inserted into the sleeve 6 (Note: the passage in question incorrectly refers to Fig. 2). Thus, it is readily apparent that Page does not disclose any of the three elements claimed in this application, and accordingly neither anticipates nor renders obvious the invention claimed in new claim 9 and consequently in each of the remaining claims 2, 3 and 6 to 8.

Original claims 5 to 8 were rejected as unpatentable over Ellis or Chin et al in view of Harris et al. Ellis discloses a filter defined by a pair of opposed side walls 12

and 13 joined to one another at bottom edges 14 and side edges 16, and a debris dam 22 in a dam container 20. The filter of Ellis is more in the nature of a sewer insert and does not include elements (a) or (b) of applicant's invention, namely an annular, closed, porous, tubular casing for placing on a sewer grate, and a skirt connected to and extending radially outwardly from a bottom side edge of the casing as claimed in claim 9 of this application. Combining the teachings of Harris et al with those of Ellis would still not produce the combination of elements claimed in claim 9. Harris et al discloses a removable filter for a catch basin including a cylindrical or annular flow wall for elevating an overflow opening centrally located in a filter fabric 22, which admittedly is wrapped around the sides and ends of an inlet grate 16. However, like the other references of record, Harris et al does not disclose the above described combination of elements (a), (b) and (c) claimed in new claim 9 and consequently each of the remaining claims of this application. The overflow wall 24 of Harris et al, which typically comprises foam rubber, is intended to prevent water flowing into the overflow opening 18 during normal water flow (see lines 7 and 8 in the lefthand column on page 2 of the patent).

The basic element of the Chinn et al reference is a filter envelope 10 for receiving the cover or grate 16. The embodiment of the invention illustrated in Figs. 6 and 7 of Chinn et al includes a roll filter 30 attached to a filter envelope 10 (see column 3, lines 7 to 9). Clearly, Chinn et al does not disclose a combination of elements including elements (a) and (b) of applicant's invention listed above. Chinn et al does not disclose any resembling an annular, closed, porous, tubular casing for placing on a sewer grate with a skirt connected to and extending radially outwardly from a bottom side edge of the casing for wrapping around the side edges of the

grate, as claimed in claim 9 of this application. For the reasons set out above, combining the teachings of Harris et al with those of Chinn et al would not result in the combination claimed in new claim 9.

Since the cited references, when considered alone or in combination, do not teach the specific combination of elements now claimed in this application, it is submitted that the application is in condition for allowance. Notice to this effect is requested.

Yours sincerely,



George A. Seaby
Reg. No. 24,034

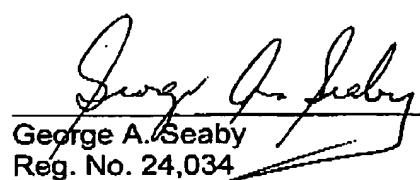
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SEABY & ASSOCIATES
603 - 250 City Centre Avenue
Ottawa, ON K1R 6K7
Tel: (613) 232-5815
Fax: (613) 232-5831
E-mail: office@seaby.ca

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George A. Seaby
Reg. No. 24,034